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 PRESIDIO COMPONENTS, INC.

**UNITED STATES DISTRICT COURT
 FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

PRESIDIO COMPONENTS, INC.,)	Case No. 3:08-cv-00335-IEG-NLS
)	
Plaintiff,)	PLAINTIFF'S REPLY
)	TO DEFENDANT'S
v.)	COUNTERCLAIM
)	
AMERICAN TECHNICAL CERAMICS CORP.,)	
)	
Defendant.)	
)	
<u>AND RELATED ACTIONS</u>)	

Plaintiff, Presidio Components, Inc. ("Presidio"), by and through its
 counsel, herein replies to the numbered paragraphs of Defendant American
 Technical Ceramics Corp.'s ("ATC") Counterclaim ("Counterclaim"):

1 29. Presidio admits the allegations of Paragraph 29 of the
2 Counterclaim.

3 30. Presidio admits the allegations of Paragraph 30 of the
4 Counterclaim.

5 31. Presidio admits the allegations of Paragraph 31 of the
6 Counterclaim.

7 32. Presidio admits the allegations of Paragraph 32 of the
8 Counterclaim.

9 33. In response to the allegations of Paragraph 33 of the
10 Counterclaim, Presidio admits that it commenced an action for patent infringement
11 on or about May 17, 2007. Presidio denies the remaining allegations of Paragraph
12 33 of the Counterclaim and further states that the Complaint filed in this action and
13 the Complaint filed on or about May 17, 2007 speak for themselves.

14 34. In response to the allegations of Paragraph 34 of the
15 Counterclaim, Presidio lacks sufficient knowledge or information to form a belief as
16 to the truth of the allegations of Paragraph 34 of the Counterclaim and, therefore,
17 denies such allegations.

18 35. Denied.

19 36. In response to the allegations of Paragraph 36 of the
20 Counterclaim, Presidio admits only that it alleged in its May 17, 2007 Complaint
21 that it was the owner of the '356 patent, and that ATC questioned Presidio's
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38. Presidio admits the allegations of Paragraph 38 of the Counterclaim

39. Presidio incorporates its answers to Paragraphs 29-38 as though fully set forth herein. Further, because Paragraph 39 of the Counterclaim incorporates Paragraphs 18-28 of the Answer, Presidio responds herein to Paragraphs 18-28 as follows:

19. Presidio admits that an Information Disclosure Statement was filed with the United States Patent and Trademark Office on July 23, 2002 in United States Application No. 10/150,202 stating: that Presidio was contacted by

1 representatives of JDS Uniphase (“JDS”); that the JDS
2 representatives sought an improved broadband capacitor,
3 to be used in a combination such as that shown in Figs. 8A
4 and 8B of United States Application No. 10/150,202; that
5 the inventors proposed an alternative approach, centered
6 around the experimental development of an integrated
7 device, including what were expected to be independent
8 multi-layer and single-layer capacitors; that JDS agreed;
9 that JDS agreed to pay a non recoverable engineering
10 charge of \$1500.00 each, for two batches of 100
11 experimental capacitors in different sizes; that these
12 experimental capacitors were shipped to JDS; and, that
13 Presidio did not have any significant test results at the time
14 the capacitors were shipped. Presidio denies the
15 remaining allegations of Paragraph 19 of the
16 Counterclaim.
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22 20. Presidio denies the allegations of Paragraph 20 of the
23 Counterclaim.

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25 21. Presidio denies the allegations of Paragraph 21 of the
26 Counterclaim.
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22. Presidio admits that the Information Disclosure Statement filed with the United States Patent and Trademark Office on July 23, 2002 in United States Application No. 10/150,202 states that on May 17, 2001, JDS did state a belief that the sampled capacitors performed better than their existing solutions. Presidio further admits that activity transpired between Presidio and JDS. Presidio denies the remaining allegations of Paragraph 22 of the Counterclaim.

23. Presidio admits that in an Amendment and Response filed on January 23, 2003, it was stated that the capacitor of Monsorno has an equivalent circuit that is represented by the capacitors 67, 69 in Fig. 9B. Presidio denies the remaining allegations of Paragraph 23 of the Counterclaim.

24. Presidio denies the allegations of Paragraph 24 of the Counterclaim.

25. Presidio denies the allegations of Paragraph 25 of the Counterclaim.

26. Presidio denies the allegations of Paragraph 26 of the Counterclaim.

1 27. Presidio denies the allegations of Paragraph 27 of the
2 Counterclaim.

3 28. Presidio denies the allegations of Paragraph 28 of the
4 Counterclaim.

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6 40. Presidio denies the allegations of Paragraph 40 of the
7 Counterclaim.

8 41. In response to the allegations of Paragraph 41 of the
9 Counterclaim, Presidio admits only that a copy of Presidio's Supplemental
10 Disclosure of Asserted Claims and Preliminary Infringement Contentions RE: U.S.
11 Patent No. 6,816,356 is attached to the Counterclaim. Presidio further states that
12 Presidio's Supplemental Disclosure of Asserted Claims and Preliminary
13 Infringement Contentions RE: U.S. Patent No. 6,816,356 speaks for itself.
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16 42. Presidio lacks sufficient knowledge or information to form a
17 belief as to the truth of the allegations of Paragraph 42 of the Counterclaim and,
18 therefore, denies such allegations.
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21 43. Presidio denies the allegations of Paragraph 43 of the
22 Counterclaim.

23 44. Presidio denies the allegations of Paragraph 44 of the
24 Counterclaim.

25 45. Presidio denies the allegations of Paragraph 45 of the
26 Counterclaim.
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1 46. Presidio denies the allegations of Paragraph 46 of the
2 Counterclaim.

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5 **COUNT II**

6 47. Presidio incorporates its answers to Paragraphs 29-46 as though
7 fully set forth herein.

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9 48. Presidio denies the allegations of Paragraph 48 of the
10 Counterclaim.

11 49. Presidio denies the allegations of Paragraph 49 of the
12 Counterclaim.

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14 50. Presidio denies the allegations of Paragraph 50 of the
15 Counterclaim.

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17 51. Presidio denies the allegations of Paragraph 51 of the
18 Counterclaim.

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21 **COUNT III**

22 52. Presidio incorporates its answers to Paragraphs 29-51 as though
23 fully set forth herein.

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25 53. Presidio denies the allegations of Paragraph 53 of the
26 Counterclaim.

1 54. Presidio denies the allegations of Paragraph 54 of the
2 Counterclaim.

3 55. Presidio denies the allegations of Paragraph 55 of the
4 Counterclaim.

5 56. Presidio denies the allegations of Paragraph 56 of the
6 Counterclaim.

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9 **COUNT IV**

10 57. Presidio incorporates its answers to Paragraphs 29-56 as though
11 fully set forth herein.

12 58. Presidio lacks sufficient knowledge or information to form a
13 belief as to the truth of the allegations of Paragraph 58 of the Counterclaim, and
14 therefore, denies such allegations.

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16 59. Denied.

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18 60. Presidio lacks sufficient knowledge or information to form a
19 belief as to the truth of the allegation in Paragraph 60 of the Counterclaim that
20 “ATC’s 545L capacitor has been, and continues to be, highly regarded by
21 consumers in the electronic components industry due in part to the fact that it is
22 orientation insensitive and suffers less insertion loss over a larger operable
23 frequency,” and, therefore, denies same. Presidio denies the remaining allegations
24 of Paragraph 60 of the Counterclaim.
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61. Presidio denies the allegations of Paragraph 61 of the Counterclaim.

62. Presidio admits the allegations of Paragraph 62 of the Counterclaim.

63. Presidio denies the allegations of Paragraph 63 of the Counterclaim.

64. Presidio denies the allegations of Paragraph 64 of the Counterclaim.

65. Presidio denies the allegations of Paragraph 65 of the Counterclaim.

COUNT V

66. Presidio incorporates its answers to Paragraphs 29-65 as though fully set forth herein.

67. In response to the allegations of Paragraph 67 of the Counterclaim, Presidio admits only that a copy of Presidio's Supplemental Disclosure of Asserted Claims and Preliminary Infringement Contentions RE: U.S. Patent No. 6,816,356 is attached to the Counterclaim. Presidio further states that Presidio's Supplemental Disclosure of Asserted Claims and Preliminary Infringement Contentions RE: U.S. Patent No. 6,816,356 speaks for itself.

68. Presidio lacks sufficient knowledge or information to form a belief as to the truth of the allegations of Paragraph 68 of the Counterclaim and, therefore, denies such allegations.

69. In response to the allegations of Paragraph 69 of the Counterclaim, Presidio admits only that a copy of Presidio's advertising is attached to the Counterclaim as Exhibits E and F, and that United States Patent No. 6,816,356 appears thereon. Presidio denies the remaining allegations of Paragraph 69 of the Counterclaim

70. Presidio lacks sufficient knowledge or information to form a belief as to the truth of the allegations of Paragraph 70 of the Counterclaim and, therefore, denies such allegations.

71. Presidio lacks sufficient knowledge or information to form a belief as to the truth of the allegations of Paragraph 71 of the Counterclaim and, therefore, denies such allegations.

72. Presidio denies the allegations of Paragraph 72 of the Counterclaim.

FIRST AFFIRMATIVE DEFENSE

73. **Justification.**

SECOND AFFIRMATIVE DEFENSE

74. Estoppel.

WHEREFORE, Plaintiff, Presidio Components, Inc. prays:

- a. Defendant American Technical Ceramics Corp.'s Counterclaim be dismissed with prejudice and that judgment be entered for Presidio;
- b. Presidio be awarded its costs and attorneys fees in defending against Defendant American Technical Ceramics Corp.'s Counterclaim;
- c. For such other and further relief as the Court deems just and proper.

Respectfully submitted,
PRESIDIO COMPONENTS, INC.

Dated: June 20, 2008

/Gregory F. Ahrens/

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CERTIFICATE OF SERVICE

I, the undersigned, certify and declare that I am over the age of 18 years, employed in the County of Hamilton, State of Ohio, and am not a party to the above-entitled action.

On June 20, 2008, I caused a copy of the following document(s):

PLAINTIFF'S REPLY TO DEFENDANT'S COUNTERCLAIM

by electronically filing the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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[X] (BY MAIL AND EMAIL) The envelope was mailed with postage thereon fully prepaid. As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Cincinnati, Ohio in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on June 20, 2008, at Cincinnati, Ohio.

s/Gregory F. Ahrens
Gregory F. Ahrens